

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1189 be amended to read as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007,  
4       SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND  
5       AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED  
6       AND AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7       JANUARY 1, 2009]: Sec. 3.5. When used in this article, the term  
8       "adjusted gross income" shall mean the following:  
9       (a) In the case of all individuals, "adjusted gross income" (as  
10      defined in Section 62 of the Internal Revenue Code), modified as  
11      follows:  
12      (1) Subtract income that is exempt from taxation under this article  
13      by the Constitution and statutes of the United States.  
14      (2) Add an amount equal to any deduction or deductions allowed  
15      or allowable pursuant to Section 62 of the Internal Revenue Code  
16      for taxes based on or measured by income and levied at the state  
17      level by any state of the United States.  
18      (3) Subtract:  
19          **(A) for taxable years beginning before January 1, 2009, one**  
20          thousand dollars (\$1,000), or in the case of a joint return filed  
21          by a husband and wife, subtract for each spouse one thousand  
22          dollars (\$1,000);  
23          **(B) for taxable years beginning after December 31, 2008,**  
24          **and beginning before January 1, 2010, two thousand**

dollars (\$2,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse two thousand dollars (\$2,000); and

(C) for taxable years beginning after December 31, 2009, four thousand dollars (\$4,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse four thousand dollars (\$4,000).

(4) Subtract:

(A) for taxable years beginning before January 1, 2009, one thousand dollars (\$1,000) for:

~~(A)~~ (i) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

~~(B)~~ (ii) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

~~(C)~~ (iii) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

or

(B) for taxable years beginning after December 31, 2008, and beginning before January 1, 2010, two thousand dollars (\$2,000) for:

(i) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(ii) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(iii) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer; or

(C) for taxable years beginning after December 31, 2009, four thousand dollars (\$4,000) for:

(i) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(ii) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(iii) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, and beginning before January 1, 2009, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as

effective January 1, 2004); and

**(B) for taxable years beginning after December 31, 2008, and beginning before January 1, 2010, three thousand dollars (\$3,000) for each of the exemptions allowed under Section 151(c) of the Internal Revenue Code that is for a qualifying child (as defined in Section 152(c) of the Internal Revenue Code);**

**(C) for taxable years beginning after December 31, 2009, six thousand dollars (\$6,000) for each of the exemptions allowed under Section 151(c) of the Internal Revenue Code that is for a qualifying child (as defined in Section 152(c) of the Internal Revenue Code);**

~~(B)~~ **(D) for taxable years beginning before January 1, 2009,** five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000);

**(E) for taxable years beginning after December 31, 2008, and beginning before January 1, 2010, one thousand dollars (\$1,000) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000); and**

**(F) for taxable years beginning after December 31, 2009, two thousand dollars (\$2,000) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).**

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

- 1 (8) Subtract any amounts included in federal adjusted gross  
2 income under Section 111 of the Internal Revenue Code as a  
3 recovery of items previously deducted as an itemized deduction  
4 from adjusted gross income.
- 5 (9) Subtract any amounts included in federal adjusted gross  
6 income under the Internal Revenue Code which amounts were  
7 received by the individual as supplemental railroad retirement  
8 annuities under 45 U.S.C. 231 and which are not deductible under  
9 subdivision (1).
- 10 (10) Add an amount equal to the deduction allowed under Section  
11 221 of the Internal Revenue Code for married couples filing joint  
12 returns if the taxable year began before January 1, 1987.
- 13 (11) Add an amount equal to the interest excluded from federal  
14 gross income by the individual for the taxable year under Section  
15 128 of the Internal Revenue Code if the taxable year began before  
16 January 1, 1985.
- 17 (12) Subtract an amount equal to the amount of federal Social  
18 Security and Railroad Retirement benefits included in a taxpayer's  
19 federal gross income by Section 86 of the Internal Revenue Code.
- 20 (13) In the case of a nonresident taxpayer or a resident taxpayer  
21 residing in Indiana for a period of less than the taxpayer's entire  
22 taxable year, the total amount of the deductions allowed pursuant  
23 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
24 which bears the same ratio to the total as the taxpayer's income  
25 taxable in Indiana bears to the taxpayer's total income.
- 26 (14) In the case of an individual who is a recipient of assistance  
27 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,  
28 subtract an amount equal to that portion of the individual's  
29 adjusted gross income with respect to which the individual is not  
30 allowed under federal law to retain an amount to pay state and  
31 local income taxes.
- 32 (15) In the case of an eligible individual, subtract the amount of  
33 a Holocaust victim's settlement payment included in the  
34 individual's federal adjusted gross income.
- 35 (16) For taxable years beginning after December 31, 1999,  
36 subtract an amount equal to the portion of any premiums paid  
37 during the taxable year by the taxpayer for a qualified long term  
38 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
39 taxpayer's spouse, or both.
- 40 (17) Subtract an amount equal to the lesser of:  
41 (A) for a taxable year:  
42 (i) including any part of 2004, the amount determined under  
43 subsection (f); and  
44 (ii) beginning after December 31, 2004, two thousand five  
45 hundred dollars (\$2,500); or  
46 (B) the amount of property taxes that are paid during the

1 taxable year in Indiana by the individual on the individual's  
2 principal place of residence.

3 (18) Subtract an amount equal to the amount of a September 11  
4 terrorist attack settlement payment included in the individual's  
5 federal adjusted gross income.

6 (19) Add or subtract the amount necessary to make the adjusted  
7 gross income of any taxpayer that owns property for which bonus  
8 depreciation was allowed in the current taxable year or in an  
9 earlier taxable year equal to the amount of adjusted gross income  
10 that would have been computed had an election not been made  
11 under Section 168(k) of the Internal Revenue Code to apply bonus  
12 depreciation to the property in the year that it was placed in  
13 service.

14 (20) Add an amount equal to any deduction allowed under  
15 Section 172 of the Internal Revenue Code.

16 (21) Add or subtract the amount necessary to make the adjusted  
17 gross income of any taxpayer that placed Section 179 property (as  
18 defined in Section 179 of the Internal Revenue Code) in service  
19 in the current taxable year or in an earlier taxable year equal to  
20 the amount of adjusted gross income that would have been  
21 computed had an election for federal income tax purposes not  
22 been made for the year in which the property was placed in  
23 service to take deductions under Section 179 of the Internal  
24 Revenue Code in a total amount exceeding twenty-five thousand  
25 dollars (\$25,000).

26 (22) Add an amount equal to the amount that a taxpayer claimed  
27 as a deduction for domestic production activities for the taxable  
28 year under Section 199 of the Internal Revenue Code for federal  
29 income tax purposes.

30 *(23) Subtract an amount equal to the amount of the taxpayer's*  
31 *qualified military income that was not excluded from the*  
32 *taxpayer's gross income for federal income tax purposes under*  
33 *Section 112 of the Internal Revenue Code.*

34 ~~(23)~~ **(24)** *Subtract income that is:*

35 *(A) exempt from taxation under IC 6-3-2-21.7; and*

36 *(B) included in the individual's federal adjusted gross income*  
37 *under the Internal Revenue Code.*

38 (b) In the case of corporations, the same as "taxable income" (as  
39 defined in Section 63 of the Internal Revenue Code) adjusted as  
40 follows:

41 (1) Subtract income that is exempt from taxation under this article  
42 by the Constitution and statutes of the United States.

43 (2) Add an amount equal to any deduction or deductions allowed  
44 or allowable pursuant to Section 170 of the Internal Revenue  
45 Code.

46 (3) Add an amount equal to any deduction or deductions allowed

or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

*(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).*

~~(10)~~ **(11)** Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana

law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the insurance company's taxable income under the Internal Revenue Code.*

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article

by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the insurance company's taxable income under the Internal Revenue Code.*

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September

11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the taxpayer's taxable income under the Internal Revenue Code.*

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

- 1 STEP FIVE: Determine the sum of the STEP FOUR amount and
- 2 two thousand five hundred dollars (\$2,500).".
- 3 Page 2, after line 30, begin a new paragraph and insert:
- 4 "SECTION 2. [EFFECTIVE JANUARY 1, 2009] **IC 6-3-1-3.5, as**
- 5 **amended by this act, applies only to taxable years beginning after**
- 6 **December 31, 2008.**".
- 7 Renumber all SECTIONS consecutively.  
(Reference is to HB 1189 as printed January 25, 2008.)

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Representative Brown T